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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,845	12/24/2001	William H. Reeves	L-00003-004	4172
25179	7590	05/04/2005	EXAMINER	
A PATENT LAWYER CORP, PC R WILLIAM GRAHAM 22 S ST CLAIR ST DAYTON, OH 45402			FOREMAN, JONATHAN M	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,845

Applicant(s)

REEVES ET AL.

Examiner

Jonathan ML Foreman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

New grounds of rejection are contained within this Office Action. Accordingly this action has been made Non-Final.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 5 and 9 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,941,121 to Olinger et al. in view of U.S. Patent No. 5,722,423 to Lind et al.

In regards to claims 1 – 5 and 9 – 12, Olinger et al. discloses an apparatus including an introducer needle which is tubular having a connectable open end and a second terminal open end (Col. 9, lines 30 – 39) and a diameter to co-receive an optic fiber (Col. 8, lines 43 - 45); a microendoscope (Figure 1) having a generally v-shaped housing, an optic fiber (157) operably extending through an open surface end and which is inserted into the needle in a manner to enable an image to be obtained (Col. 9, lines 42 – 57), the housing having a first channel to receive the optic fiber (Col. 7, lines 58 – 60), a second channel to receive an optic light source (Col. 8, lines 11 - 24), and a third channel (51), each channel is separate and continuous. The ends of the needle and optic fiber are generally co-terminus (Col. 9, lines 36 – 39). Olinger et al. discloses the optic fiber being illuminated (Col. 9, lines 49 – 57) and a camera connected to the first channel for viewing the image seen through the optic fiber (Col. 6, line 52). A flexible tubing (Col. 7, lines 47 - 51) covers the optic fiber. A stylet extends through the needle to block unwanted material from entering the needle and

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includes an end to be gripped to permit removal of the stylet (Col. 9, lines 30 – 39). Olinger et al. discloses the apparatus for use in performing biopsies (Col. 10, line 47) in sensitive, small body areas or tissues (Col. 10, line 53). However, Olinger et al. fails to disclose an ovarian cytology brush for insertion into the third channel. Lind et al. discloses a cytology brush for being inserted into the operational channel of an endoscope (Col. 6, lines 59 – 61). It would have been obvious to one having ordinary skill in the art to use the cytology brush as taught by Lind et al. with the microendoscope as disclosed by Olinger et al. in order to obtain a microbiological biopsy specimen from the patient (Col. 6, lines 25 – 26).

3. Claims 6 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable U.S. Patent No. 3,941,121 to Olinger et al. in view of U.S. Patent No. 5,722,423 to Lind et al. as applied to claim 5 above, and further in view of U.S. Patent No. 5,873,814 to Adair.

In reference to claims 6 – 8, Olinger et al. in view of Lind et al. discloses a camera and a variety of recording or diagnostic instruments being connected to the system (Col. 6, lines 51 - 53). However, Olinger et al. in view of Lind et al. fail to disclose the camera being connected to a monitor connected to a computer having software to enable viewing of the image, a touch screen monitor, and the computer including a microphone and having voice recognition software associated with the microphone to permit notes to be recorded. Adair teaches an endoscopic camera connected to a video touch screen monitor (Col. 4, lines 36 – 42; lines 49 – 65) and a computer having a microphone and voice recognition software associated with the microphone to permit notes to be recorded (Col. 4, lines 58 – 65; Col. 8, lines 60 – 62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the camera as disclosed by Olinger et al. in view of Lind et al. to be connected to a touch screen monitor associated with a computer including a microphone and voice recognition software as taught by

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Adair to assist a user in manipulating an image or in recording data represented by the image (Col. 4, lines 49 – 60).

Response to Arguments

4. Applicant's arguments with respect to claim 2/8/05 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,249,541 to Pratt.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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